

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

30 WRIT PETITION NO.1703 OF 2021

SHASHANK SURYAKANT NIRMALE
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

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Advocate for the petitioner : Mr.S.V.Suryawanshi
AGP for Respondent-State : Mrs.M.A.Deshpande
Advocate for Respondent no.5 : Mr.Sachin S. Deshpande

...

**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**

DATE : 18.04.2022

P.C. :

1. We have considered the extensive submissions of the learned Advocates for the respective sides in the backdrop of the prayers put forth by the petitioner at clauses-B and C, which read as under:

(B) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the Respondent No.4 to measure the land bearing Gat No. 205 situated at village Dautpur, Taluka : Parli-Vaijnath, District : Beed

and draw the map specifying the boundaries of the land of Petitioner within a stipulated period and for that purpose issue necessary writ, order or directions.

- (C) Issue a writ of certiorari or any other appropriate writ, order and directions thereby to quash and set aside letter dated 13.10.2020 bearing No. Measurement/KV-121/20 issued by the Respondent No. 4 (Annexed at Exhibit -"H") and for that purpose issue necessary writ, order or directions.

2. The impugned order issued by the Deputy Superintendent of Land Records, Parli-Vajnath, dated 13.10.2020, refusing to measure the land identified by the petitioner as belonging to him, was on account of the pendency of the Regular Civil Suit No.155/2014 and the counter-claim put forth by one of the defendants. The father of the petitioner, namely, Suryakant Vajnathappa Nirmale was defendant no.2 in the suit. The suit is said to have been withdrawn subsequently.

3. The reason for the petitioner to approach this Court invoking our Writ jurisdiction is on account of the view expressed by the Deputy Superintendent of Land Records. However, after hearing the learned Advocates for the respective sides and considering the prayers put forth by the petitioner, it is obvious that the petitioner desires that respondent no.4 should measure only his land Gat No.205 and draw a map specifying his boundaries. It is well settled that when it comes to such measurement, a joint measurement of the properties is ideal since it avoids confusion and exposes encroachment into somebody's share. No doubt, there has been a partition in view of the suit for partition and separate possession, earlier. Nevertheless, the disputes between these blood relatives does not ebb/subside.

4. In view of the above, we are unable to issue a Writ of mandamus in such circumstances and we find that it would be appropriate to let the petitioner prefer a suit for measurement of his land and for fixing of the boundaries,

wherein other blood relatives would also participate in the said litigation.

5. As such, this petition is disposed off.

[S.G.DIGE, J.]

[RAVINDRA V. GHUGE, J.]

DDC